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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re SKYLAR C. et al., Persons Coming
Under the Juvenile Court Law.

CONTRA COSTA COUNTY CHILDREN
AND FAMILY SERVICES BUREAU,

Plaintiff and Respondent,

v.

JASON C.,

Defendant and Appellant.

A145733

(Contra Costa County Super. Ct.
Nos. J14-00466; J14-00467)

Jason C. (Father) appeals from the juvenile court's orders denying his petition for modification, pursuant to Welfare and Institutions Code section 388,¹ and terminating his parental rights, pursuant to section 366.26, with respect to his daughters, Skylar C. (now age five) and Charlie C. (now age three). On appeal, Father contends the juvenile court abused its discretion when it denied his section 388 petition for modification, in which he sought additional reunification services. Father argues that the order denying his petition, as well as the order terminating his parental rights must therefore be vacated. We shall affirm the juvenile court's orders.

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

FACTUAL AND PROCEDURAL BACKGROUND

On May 5, 2014, the Contra Costa County Children and Family Services Bureau (Bureau) filed an original petition, pursuant to section 300, subdivisions (b) and (j). The petition alleged, under section 300, subdivision (b), that then three-year-old Skylar and one-year-old Charlie were at substantial risk of harm due to their mother's (Mother) severe drug problem; her failure to provide the children with adequate food, clothing, and shelter; and her involvement in domestic violence with father in the presence of the children.² The petition also alleged, under section 300, subdivision (b), that the children were at substantial risk of harm due to Father engaging in domestic violence with Mother and his failure to provide the children, with adequate food, clothing, and shelter.

In a detention/jurisdiction report filed on May 6, 2014, the social worker reported that, on April 30, Mother and Father had engaged in domestic violence in front of the children during which Mother sustained an injury to her chest. As a result, Father was arrested. When officers went to the home the next day, Mother admitted that she was pregnant and using methamphetamine. The home was in "complete disarray," with hardly any food in the refrigerator; a dirty kitchen containing dirty dishes, trash, and rotting food; a non-working toilet and two propane torches on the floor in the children's bathroom; and a crack pipe in mother's purse. The bedrooms and living room contained many piles of clothes and other items, including dirty diapers, and the house smelled of urine and feces. Mother was arrested for possession of a controlled substance, being under the influence, willful cruelty to a child, and a probation violation. The children were taken into protective custody.

On May 2, 2016, the social worker met with Mother, who told the social worker that on April 30, she and Father got into an argument and he threw ice cream at her. She then slipped and fell in the ice cream and got a scratch on her chest. She admitted that

² The petition also included an allegation, pursuant to subdivision (j) of section 300, that Mother had failed to reunify with the children's half sibling. This allegation was subsequently dismissed. Mother is not a party to this appeal.

she and Father had verbal arguments, but denied any physical abuse.³ The social worker also met with the two children, who had been placed in foster care. Charlie appeared very attached to her older sister, Skylar, but neither child seemed distressed to be away from their parents.

The social worker spoke with Father on the phone, and he admitted to having a lot of stress in his relationship with Mother due to finances, relationship issues, and Mother's drug use. He said he is not sure that he is the father of Mother's unborn child. He admitted throwing ice cream at Mother because he was upset with her for cheating on him and for her drug abuse. He said he did not intentionally push her, but was trying to get out of the door and pushed her with the door, which caused a scratch to her arm.⁴ Father admitted that the condition in the home had gotten "a little out of hand" in the previous month due to the lack of parenting help from Mother, who left the home for days at a time. He said he is disabled due to a bilateral knee injury and also has posttraumatic stress disorder (PTSD) from his time in the military.

Prior child welfare referrals involving Father included a 2007 referral alleging that he sexually assaulted his ex-wife in front of their five-year-old daughter and a 2009 referral alleging that he had struck his ex-wife in the face with a backpack in front of their daughter. His ex-wife reported that Father had physically assaulted her over 100 times in the past. The first referral was closed because the family was involved in Family Law Court and the second referral was "assessed out." Another referral, in 2009, involved another daughter of Father with another woman. The reporting party expressed concern about the one-year-old girl's care under Father's supervision, stating that Father,

³ The police report stated that Mother had described the April 30, 2014 incident as involving an argument with Father because he caught her looking at another man on Facebook. She said he got mad and threw ice cream in her face. She knocked the ice cream container out of his hand and ran toward the front door, at which time Father knocked her to the ground, where she sustained injuries to her chest. She said there had been several domestic violence incidents between them over the six years they had been seeing each other.

⁴ Father had told police that Mother's injury resulted from his trying "to beat her to the door so she wouldn't leave with their children and go on a drug binge."

a long time user of methamphetamine, was making harassing phone calls to the child's mother. This referral, which was received while Father was living with Mother and their two children, was "assessed out."

More recent referrals involving Mother and Father included one on December 6, 2010, in which the reporting party alleged "neglect and incapacity due to drug use by the parents." In a second referral, on April 28, 2011, Father and Mother were arrested and the children were detained "due to the parents' long term and chronic substance abuse." Father denied a history of methamphetamine use, but people close to the family stated that he used methamphetamine and alcohol. A family member had seen both parents smoking methamphetamine in front of Skylar. The home was also in complete disarray at the time the children were detained. A family reunification case was opened and services were offered; the case was vacated and dismissed on May 30, 2013.

On May 6, 2014, the juvenile court in the present matter ordered the children detained. On June 5, both parents pleaded no contest to the section 300, subdivision (b), allegations in the petition, and the court sustained those allegations.

In the disposition report filed on July 11, 2014, the social worker reported that Father's visitation rights with his other daughters had been suspended for over a year. The social worker also described the removal of Skylar and Mother's older child from the parents' custody in April 2011, as well as Charlie's removal upon her birth in 2012. Both Skylar and Charlie were successfully returned to the parents in May 2013, but Mother's older son was not returned and was adopted by relatives. In the present matter, Father had struggled to prioritize the children's welfare over Mother's and, "while indirectly accepting the mother's substance abuse, by not having her leave the home, his relations with her turned violent and abusive once he confronted her about her drug use." Father told the social worker that he had used methamphetamine a few times with Mother, but stopped because it made him anxious. His stated "drug of choice" was alcohol, but he said he had not had a drink of alcohol in two years.

The children had recently been moved to a more appropriate foster home and were transitioning well to foster care, although both had trouble sleeping and Skylar was

extremely focused on food, which was not atypical for children coming from a chaotic home. The parents had separate weekly visitation with the children, during which they had been consistent and appropriate. The parents also called the children daily to check in with them.

The social worker described the family's strengths as including the parents' and children's love for each other and Father's motivation to comply with his proposed case plan. The Bureau was concerned about Father's ability to keep Mother out of the home as she sought drug treatment, as well as his "ability to meet the children's needs based on his mental health and ongoing anger issues. The [Bureau] needs to see clear progress from the father in counseling and [domestic violence] treatment to address his issues of co-dependency and anger management before consideration of returning the children to his care."

The Bureau recommended that the court bypass reunification services for Mother, order reunification services for Father, and set a six-month review. The Bureau recommended that the case plan for Father include the following objectives: Developing positive support systems, expressing anger appropriately, attending and demonstrating progress in a domestic violence program, staying sober and showing the ability to live free from alcohol dependency, developing and using a domestic violence relapse prevention plan, not involving the children in attempts to control or intimidate his partner, not breaking the law, cooperating with the Bureau, monitoring his children's well-being, not behaving in an abusive or threatening manner, and protecting his children from emotional harm. It also included the following client responsibilities: participate in a domestic violence program, codependency counseling, psychiatric treatment for his PTSD, a parenting education program, random substance abuse testing, and one to two 12-Step meetings per week.

At the July 11, 2014 disposition hearing, the juvenile court followed the Bureau's recommendations as to Father and ordered that he participate in reunification services. At the July 22 disposition hearing, the court bypassed reunification services as to Mother.

In a memorandum filed on January 23, 2015, and a status review report filed on January 29, 2015, the social worker reported that Father was not in full compliance with his case plan. He had been making adequate progress with his reunification services until he stopped regularly participating in random drug tests in September 2014. There had also been reports of “a dirty and messy home, inadequate care of the children during his unsupervised day visits, and a report in which Charlie and Skylar reported that they are hit in the mouths and Skylar’s hair is pulled as disciplinary measures, while in their father’s care.” Unsupervised weekend day visits had been suspended on December 4, 2014, due to these issues.

Father had complied with many of his case plan responsibilities, including participation in domestic violence counseling, monitoring by a psychiatrist, and completing a parenting education program.⁵ He had not, however, participated regularly in random drug testing since September, missing numerous test dates in September and October, and apparently participating in no tests in November or December. Nor did the social worker have evidence that Father had been participating in regular 12-Step meetings. His visitation had progressed to overnight visits when the social worker learned that overnight visits were not authorized. He therefore had resumed weekend day visits.

The foster father had reported that when he took the children to Father’s house on November 28, 2014, Father did not seem to be expecting them. He described the house as a “ ‘total train wreck,’ ” with clothes everywhere and food in random places. When the foster parent returned at 4:30 p.m. to pick up the children, Father was asleep. On the way home, Charlie said that Father had pulled Skylar’s hair, and Skylar said “that when she gets in trouble, the father pulls her hair and slaps Skylar hard in the mouth three times and sometimes also hits Charlie in the mouth.” Skylar had also reported that Father and “ ‘Chrissy’ go into the father’s bedroom and do ‘sneaky things.’ ” Those statements were

⁵ Father apparently had stopped attending counseling in November 2014, because his therapist did not believe he needed further counseling.

currently under investigation. Skylar subsequently told the social worker that “[m]y father pulls my hair and hits me.” The social worker did not observe any marks or bruises on Skylar.

Father’s unsupervised visits were suspended on December 4, 2014, due to the messy home and his lack of supervision of the children during the November 28 visit. He missed two visits in January 2015.

Father told the social worker that he had ceased drug testing and attending 12-Step meetings because it was too hard for him to participate in these services with the children in his care, and the prior social worker had given him permission to stop. The prior social worker had denied giving any such permission. Father began drug testing again in mid-December 2014 and had two negative drug tests that month and one positive test for methamphetamine. On January 5, 2015, Father again tested positive for methamphetamine.

On January 12, 2015, Father reported that he had resumed therapy, was attending his 12-Step meetings, and was enrolling in an outpatient drug rehabilitation program through the Veterans’ Administration (VA). On January 13, the foster mother said she was concerned about Charlie, who had suddenly said, while riding in the car, “ ‘[m]y daddy hit my mommy,’ ‘mommy bleeding,’ ‘mommy yell,’ and ‘fucker.’ ” Skylar had also recently said, “ ‘You know what my daddy said? He said my mom is a piece of crap and a real fucker.’ ”

The Bureau recommended suspension of visitation with Father until he drug tested regularly and had tested negative for drugs for three months, and until he was participating in all of the services listed in his case plan. The Bureau also recommended that Father’s reunification services be terminated and that a section 366.26 hearing be set. On January 23, 2015, the juvenile court suspended Father’s visitation.

At the January 29, 2015 contested review hearing,⁶ Father testified that he had been drug testing regularly until, after an assessment, a psychologist told him to participate in individual therapy and Alcoholics Anonymous (AA) meetings, but did not mention drug testing or domestic violence classes. Because Father's then social worker had said to do whatever the psychologist told him to do, Father believed he was now only required to do therapy and go to AA meetings. His former social worker, Todd Lenz, had also made regular visits to his home and never expressed concerns about its cleanliness. He did not hit his daughters; he used timeouts to discipline them. Nor did he use the words "fuck" or "bitch" around them. He had also continued with his individual therapy, except for one missed visit and time off during the holidays. He had a case worker from the VA who came to his house frequently, and he had participated in parenting classes, in-home services, and AA meetings.

Father began using methamphetamine in December 2014, after his new social worker, Edyth Williams, told him he was not going to get his children back no matter what he did and even though he had fully participated in his reunification services.⁷ He had recently stopped using drugs again, continued with AA meetings, and had been recommended by the VA to participate in a 30-day inpatient treatment program followed by a 90-day outpatient program.

At the conclusion of the review hearing, following argument by counsel,⁸ the juvenile court stated that it did not find Father credible in his testimony regarding his missed drug tests, and found that "if he's disappointed in something he goes off and goes back into methamphetamine, which is so dangerous to raise young children under the

⁶ During the hearing, the court ordered Father to drug test, and he tested negative for drugs.

⁷ He then acknowledged that Williams had actually said the Bureau was recommending that services not continue, and that he would need to speak to his public defender.

⁸ During her argument recommending termination of Father's reunification services, counsel for the children told the court, "I may never have had someone that I believe less sitting on the stand when I cross-examined him."

influence of this drug.” Because the court found there was not a substantial probability that the children could be returned to Father after another six months of services, it terminated his reunification services and set the matter for a section 366.26 hearing. The court did order monthly supervised visitation for Father.

On May 12, 2015, Father filed a section 388 petition, stating that he had entered a VA recovery program on March 5, and was successfully discharged on April 6. While in the program, he served as a patient officer and entered the tobacco cessation group. He was now attending a VA outpatient treatment program. He asked that reunification services be reinstated. At a hearing on the same date, the children’s counsel requested that Father’s monthly supervised visitation be suspended pending the next hearing. She believed they were detrimental because Skylar seemed frightened of Father and both children were having night terrors after visits. The court suspended the visits until the next hearing.

On May 18, 2015, the social worker filed a memorandum in response to Father’s petition. The social worker reported that Father had completed a 30-day residential treatment program at the VA, had been under the treatment of a psychologist since January, had tested negative for drugs during all of April, and was apparently attending support groups through the VA. The social worker believed that, “[a]lthough [Father] has made much progress during the past five months, [the Bureau] continues to recommend termination of parental rights for the parents. [Father] had resources available to him to complete the requirements of his case plan throughout the past year, but was unable to participate continuously and actively in his case plan objectives, even though he knew he could lose parental rights of his children.”

At the July 7, 2015 hearing on Father’s section 388 petition, Michael Potoczniak, a clinical psychologist at the VA, testified that he had been working with Father for about seven months. Potoczniak had recommended that Father enter a residential treatment program, which he did. During that program, Father had volunteered and become a leader. Since then, Father had been attending outpatient group meetings almost daily and individual treatment sessions with Potoczniak at least weekly. He also had been

consistently drug testing since April, and all of the tests had been negative. Father had now completed his 90-day aftercare program. Potoczniak believed Father had gained insight and taken responsibility for some of the decisions he had made. Father had acknowledged slapping his daughter in the face, but realized that was not the way to parent.

At the July 8, 2015 continued hearing on the section 388 petition, Edyth Williams testified that she had been the social worker on the case since November 1, 2014. She had met with Father periodically to discuss issues, such as a positive drug test in January, missing a visit, and the subsequent suspension of his visits due to the positive tests and Charlie's nightmares. Father believed the visits were going fine.

In March, the foster mother had told Williams that Skylar had behavioral problems and was angry at her parents. In early April, the foster mother said Skylar had been talking about memories, including one of her parents "laying on the floor and looking dead, and she was upset that she could not awaken them." Skylar's therapist said Skylar had curled up into a ball the day after a visit with Father. In mid-April, the foster mother had expressed concern about the children having a visit with Father; she had had a very hard time getting Skylar into the car because she did not want to see Father. Skylar said it was because "she just couldn't get the image of her father hitting her mother out of her mind." The foster mother also said that Charlie "was determined not to return home to [Father] and had been talking about that lately." The foster mother had found Charlie screaming, and Charlie said that Father had "told her she had to go to his house, and she hadn't wanted to."

In early May, Skylar's therapist asked the foster mother to attend a visit with the children because Skylar "was having memories of her past that frightened her." When Williams talked to Father about this before the visit, he was not in agreement with the foster mother attending the visit, and said "he didn't understand why Skylar should be afraid of him, and he didn't understand why the child was having memories of her past that was scary to her." Father had never expressed to Williams any understanding of or

regret about the effects of his behavior on Skylar and Charlie. Instead, he had blamed Mother and the Bureau for the events of the dependency.

Williams had recently talked to Skylar about her feelings about having contact with Father, and Skylar had said she did not want to live with him, but wanted to visit him. She had never said that she missed him. Williams had seen the children once since their visits with Father had been suspended, and they seemed happier and calmer. The foster mother said they had not been asking about their parents and they were cursing less. The children had been moved to a new foster home on July 1, 2015, because the former foster parents had decided to do an international adoption and were not sure they would be able to provide ongoing care for the girls. The new prospective adoptive parents had previously been providing respite care to the children and the former foster parents had stated a preference that the children go to this family.

Father testified on July 8 and 9, 2015, describing his recent inpatient and outpatient drug treatment programs and related activities. He also testified that, before reunification services were terminated in this case, he was attending a VA outpatient program, but was “not fully committed,” in that he skipped days. Since recently completing the inpatient and outpatient treatment programs, he had learned about the effect his substance abuse had on the children: “It’s definitely split up our family. Um, they experienced domestic violence, um, a father that wasn’t completely attentive to their needs, um, caused them stress, anxiety, fear, and just—they experienced a father that was selfish and dishonest.” Father understood that he had made many mistakes, but he loved his children and was willing to do whatever was needed to make sure they had a safe living environment.

Father acknowledged that some of the children’s problematic behavior could have resulted from what they witnessed in his home, but he also believed that the first foster family they were in, at the very beginning of this dependency, did not take care of them properly and caused some of the bad behaviors. Father denied hitting Skylar, saying instead that she threw a puppy and “I grabbed her hand, and she swore at me, and I

tapped her mouth with my hands. . . . I did not hit her.” He did not believe the girls had any emotional issues until the unsupervised visits with him ended.

At the conclusion of the hearing, the court denied the section 388 petition, explaining, first, that it found that Father’s VA psychologist, Dr. Potoczniak, was “very sincere,” but also “as naïve as they could be” and “very biased, very biased, to dad.” The court found the social worker, Edyth Williams, credible.

“And as to the father, you know, . . . first of all, sometimes I think you are lying and other times I think you are just in self-delusion. . . . [¶] I don’t know if you are aware of it, but in a great part of this hearing, you are seething with anger, seething. It is like permeating the courtroom, your anger is so strong, and I think of that anger for those children. If I am sitting her as a judge and watching you seething with anger, what on earth have those children been exposed to when that anger can be unleashed?

“I think you are a very violent man. I don’t think you want to be. I just think you are. I think you have very violent tendencies, and I think you have done some very violent things, and I think you have terrified your children. It doesn’t mean—you know, they want to love you. All children want to love their parents. I think you love your children. I just—I just think you have some tremendous issues. . . .

“So when I say that credibility is an issue, I think sometimes—I guess I think you were straight out not being truthful, but a lot of the times, I think you just don’t see the ramifications of what you do and what you did to your children.

“I am very concerned about the fact the children were detained on—this time in May 2014. You go into a program in March of 2015. I think you are in the process of changing; although, again, because you are in self-denial, and you have so many answers that don’t attribute any of the culpability to yourself, I don’t know how much of that changing is real.

“I see the children as becoming much better without the visits. Their behavior—they have been so severely traumatized. I really am concerned for them. . . . They were exposed to deplorable conditions and awful violence. [¶] I mean, now, my gosh, they have regular meals, and they are comfortable, and they are not fearful. . . .

“I do not find that in the best interest of the children, to grant you more services, and I do not believe you are a changed man at all. I believe you want to change, but I think you are self-delusional about what your changes are. . . . [¶] I think there is some—some change in the fact that you actually stuck with the program, and I believe during that time that you were in that, in custody, it looked like a lockdown facility, . . . you didn’t use drugs during that period of time.” The court concluded that Father had not changed enough and it was not in the best interest of the children to grant the petition.

The court then turned to the section 366.26 hearing. Regarding adoptability, the children’s attorney stated that there were “two families that would love to adopt them” and that the current caregivers had passed the home study. The court stated that it did not see a legal barrier to terminating parental rights. “They are in a stable home. They are in a loving home. They have known the children. They have been respite caregivers. They have known the former foster parents. . . . [¶] . . . [¶] So these are young, adoptable children. The court continued: I certainly don’t find a bond sufficient with the parents The concerns I saw were just staggering. And when they were allowed to be in the parent home for two times [before and after the first dependency], it was absolutely ghastly and deplorable what they were exposed to, so I certainly don’t find that to be an issue. [¶] I do not find cessation of visits to be an issue, or contact, because the children are doing so much better with no contact.” The court therefore found by clear and convincing evidence that the children would be adopted, and terminated the parental rights of both parents.

On July 14, 2015, Father filed a notice of appeal.

DISCUSSION

Father contends the juvenile court abused its discretion when it denied his section 388 petition.

Under section 388, “[a]ny parent or other person having an interest in a child who is a dependent child of the juvenile court . . . may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court . . . for a hearing to change,

modify, or set aside any order of court previously made” (§ 388, subd. (a)(1).) “If it appears that the best interests of the child . . . may be promoted by the proposed change of order,” the juvenile court “shall order that a hearing be held” (§ 388, subd. (d).)

“At a hearing on a motion for change of placement, the burden of proof is on the moving party to show by a preponderance of the evidence that there is new evidence or that there are changed circumstances that make a change of placement in the best interests of the child. [Citations.]” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317 (*Stephanie M.*)). “[A] primary consideration in determining the child’s best interests is the goal of assuring stability and continuity. [Citation.]” (*Id.* at p. 317.)

We review the juvenile court’s denial of appellant’s section 388 petition for an abuse of discretion. (*Stephanie M.*, *supra*, 7 Cal.4th at p. 318.) As our Supreme Court has “warned: ‘The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.’” [Citations.]” (*Stephanie M.*, at pp. 318-319.)

In the present case, at the conclusion of the hearing on appellant’s section 388 petition, the juvenile court found that appellant had not demonstrated either changed circumstances or that it would be in the best interests of the children to provide Father with six more months of reunification services. Father asserts that the court was wrong on both counts.

First, according to Father, he has shown changed circumstances, as follows. Since termination of his reunification services on January 29, 2015, he had completed a 28-day inpatient treatment program through the VA, during which he took on a leadership role. He then completed a 90-day outpatient aftercare program, which included group meetings and individual treatment sessions with a psychologist. In addition, since April, he had regularly tested negative for drugs. Also, since completing his inpatient treatment program, he had been attending 12-Step meetings and continuing to work on domestic violence and anger management issues in his therapy. At the hearing on his section 388 petition, Potoczniak, his therapist at the VA, testified to his belief that Father had gained

insight and taken responsibility for some of the poor decisions he had made. Father also testified that he had learned in his recent treatment programs about the effect his substance abuse had on his children.

The evidence shows, however, that this is the second dependency involving Father and these very young children. The children were most recently detained on May 5, 2014, and, while he initially participated in his case plan, by September, Father was no longer regularly drug testing and, by December, had started using methamphetamine. Although, by March 2015, Father had again embraced services, participating in drug treatment for some four months, the juvenile court reasonably found that this was too little too late. (See, e.g., *In re Kimberly F.* (1997) 56 Cal.App.4th 519, 531, fn. 9 [“[i]t is the nature of addiction that one must be ‘clean’ for a much longer period than 120 days to show real reform”].)

The juvenile court also reasonably found that Father had not shown truly changed circumstances in other ways. For example, in March and April 2015, shortly before supervised visitation was suspended, both children had expressed fear of Father and began having night terrors after visits. Skylar also was experiencing difficult memories, including an image of her father hitting her mother and one of being unable to awaken her parents who were lying on the floor looking dead. Charlie had also expressed memories of Father hitting Mother, and Mother bleeding. Although Skylar ultimately said she wanted to visit Father, neither girl wanted to live with him. Father had acknowledged that some of the children’s issues could have resulted from what they witnessed in the home, but he believed that the foster family they had briefly lived with at the start of the dependency had caused some of their bad behaviors. Father had told Potoczniak that he had slapped his daughter, but at the hearing on his petition, he denied hitting Skylar, saying instead that “I tapped her mouth with my hands.”

While Potoczniak had testified at the hearing that he believed Father had recently gained insight and taken responsibility for some of his decisions, the court found Potoczniak sincere, but extremely naïve and “very biased” in favor of Father. The court found social worker Williams—who had testified about the children’s fears, Father’s lack

of insight, and the fact that the children seemed better once the visits with Father had stopped—credible. With respect to Father’s testimony, the court found that he was both self-delusional and lying: “So when I say that credibility is an issue, I think sometimes . . . you were straight out not being truthful, but a lot of the times, I think you just don’t see the ramifications of what you do and what you did to your children.” The court observed that, for much of the hearing, Father had been “seething with anger,” which was so strong it was “permeating the courtroom.” The court did believe that Father loved his children, but also believed that he was “a very violent man” who had “some tremendous issues” and who had “terrified” his children. With respect to changes Father had made, the court first noted that Father waited until eight months after the children were detained to enter a treatment program. The court then found that Father was perhaps in the process of changing, although because of his self-denial, the court did not “know how much of that changing is real.”

In light of the evidence in the record and the juvenile court’s credibility and factual findings based on the testimony at the hearing on his petition, we conclude the court reasonably concluded Father had not satisfied his burden of showing changed circumstances. (See *Stephanie M.*, *supra*, 7 Cal.4th at pp. 317-318; see also *In re Mary G.* (2007) 151 Cal.App.4th 184, 206 [“ ‘A petition which alleges merely changing circumstances and would mean delaying the selection of a permanent home for a child to see if a parent . . . might be able to reunify at some future point, does not promote stability for the child or the child’s best interests’ ”].)

Given the issues of grave concern that still existed more than a year after these young children were detained for the second time, the court also reasonably found that giving Father an additional six months of services was not in the children’s best interest, despite his recent efforts to address his substance abuse. (See *Stephanie M.*, *supra*, 7 Cal.4th at pp. 317-318.) The court concluded that Father remained in denial about how he had harmed his children and the social worker had observed that the children seemed happier and calmer since visits had stopped. Plainly, returning the children to Father in the near future was not an option and, at this point, after the termination of reunification

services, the focus has shifted to the children's need for permanency and stability. (See *Stephanie M.*, at p. 317.) Father points out that the children had only moved into their current foster-adopt home a week before the hearing on the section 388 petition, and argues that it therefore cannot be considered a stable home. However, Williams testified at the hearing that new prospective adoptive parents had previously been providing respite care to the children and the former foster parents had indicated that they preferred to have the children go to this family. As the court stated in its ruling at the section 366.26 hearing, in finding the children adoptable, that they were now in a stable, loving home with prospective adoptive parents who knew them and had been their respite caregivers.⁹

In sum, the juvenile court did not exceed the bounds of reason when it found that Father had not satisfied his burden of proving, by a preponderance of the evidence, that changed circumstances warranted giving him six more months of reunification services, or that this postponement of stability and continuity was in the best interest of Skylar and Charlie. (See *Stephanie M.*, *supra*, 7 Cal.4th at p. 317.) While Father is to be commended for his efforts to achieve sobriety and make positive changes in his life, we conclude the court did not abuse its discretion when it denied Father's section 388 petition. (See *Stephanie M.*, at p. 317.)

DISPOSITION

The juvenile court's orders are affirmed.

⁹ Counsel for the children had also informed the court that the new foster-adopt parents had passed their home study and that there was at least one other family interested in adopting the children as well.

Kline, P.J.

We concur:

Richman, J.

Stewart, J.

In re Skylar C. et al. (A145733)